IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 2303 of 2007(Y)

PETITIONER:

C.K.AJITH, PROPRIETOR,
M/S.TRICHEM LAB CHEMICALS, PAMBADY,
THIRUVILWAMALA, TRISSUR, PIN-680 597.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS:
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1. THE APPELLATE ASSISTANT COMMISSIONER/
DEPUTY COMMISSIONER (APPEALS), ERNAKULAM.

2. THE SALES TAX OFFICER,
WADAKKANCHERRY, TRISSUR DISTRICT.

3. INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
TRISSUR-680 004.

BY GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO. 2303 OF 2007

Dated this the 19th day of January, 2007

J U D G M E N T

As against Exhibit P2 assessment order petitioner has preferred Exhibit P5 appeal along with application for stay Exhibit P7. He also sought for an early hearing of the matter by filing Exhibit P6. In the meantime Exhibits P3 and P8 notices are issued under the Revenue Recovery Act. Exhibit P8 is a demand notice under Section 7 seeking to distrain the movable property. The contention of the petitioner is that pending consideration of the stay application by the appellate authority, recovery of the dues as per the order of assessment impugned in the appeal is unjust and it will cause undue hardship. It is also contended that sufficient opportunity was not afforded to the petitioner before completion of the assessment and according to the petitioner he has produced Form 21C and he has no other liability and he has already paid admitted tax and the further liability facet on him is not legally warranted.

2. Heard the learned Government pleader. It is the contention of the Government pleader that though the assessee

opted 17(4) assessment he did not produce Form 21 C and what has been produced is incomplete return. He also submits that in such circumstances 17(3) was invoked and assessment was completed. The figures are also taken only from the books of account as produced by the petitioner.

3. Having heard both sides and taking into consideration the totality of the circumstances, there will be direction that in case the petitioner pays an amount of Rs.40,000/- within a period of two weeks, further proceedings pursuant to Exhibit P8 will stand stayed until disposal of the appeal by the first respondent. The distraint movable shall not be removed pursuant to Exhibit P8 so as to enable the petitioner to comply with the direction.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp